

AMENDED IN ASSEMBLY APRIL 30, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1442

Introduced by Committee on Water, Parks and Wildlife (Huffman (Chair), Fuller (Vice Chair), Arambula, Tom Berryhill, Blumenfield, Caballero, Fletcher, Bonnie Lowenthal, John A. Perez, Salas, and Yamada)

February 27, 2009

An act to amend Sections 1053, 1345, 1348, 2003, 3004, 3050, 4011, 5654, 7149.45, 8035, 8036, ~~8276.4~~, 8280.6, 8405.4, 12002.1, 12159, 12160, and 12161 of, and to add Sections 859 and 2011.5 to, the Fish and Game Code, and to amend Sections 8670.3, 8670.61.5, and 8670.67 of the Government Code, relating to natural resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1442, as amended, Committee on Water, Parks and Wildlife. Fish and game: oil spills: wildlife rehabilitation.

(1) Existing law generally requires the Director of Finance to approve every gift or dedication to the state of personal property, or every gift to the state of real property in fee or in any lesser estate or interest, unless the Legislature specifically provides that approval is not required.

This bill would authorize the Department of Fish and Game to seek and accept grants and donations from private and public organizations and agencies for the purpose of administering the Canine (K9) Program.

(2) Existing law requires each person who takes birds or mammals in California to apply for, and be granted, a hunting license and requires

any person who applies for a hunting license to meet specified requirements.

This bill would authorize the Department of Fish and Game to issue collectible, commemorative licenses to any person for purposes of promoting and supporting licensed hunting and resource conservation.

(3) Existing law requires the Wildlife Conservation Board to investigate, study, and determine which streams and lakes are suitable for, or can be made suitable for, fishing, hunting, and shooting.

This bill would require the board to determine which streams and lakes are suitable for, or can be made suitable for, fishing and hunting. The bill would require the Department of Fish and Game, in determining which areas are suitable for fishing and hunting, to take into consideration areas of the state where public access and opportunity for fishing and hunting are most needed.

(4) Existing law authorizes the Wildlife Conservation Board to authorize the Department of Fish and Game to lease degraded potential wildlife habitat real property for specified purposes to nonprofit organizations or public agencies if the lessee agrees to restore the real property to its highest possible wildlife habitat value and maintain the real property at that value.

This bill would authorize the board, during the period of lease, to require that the real property be open to the public for compatible wildlife-dependent recreational opportunities.

(5) Existing law makes it unlawful to discharge any firearm or release any arrow or crossbow bolt over or across any public road or way.

This bill would make it unlawful to discharge any firearm or release any arrow or crossbow bolt over or across any public road or other established way. The bill would, except as specified, make it unlawful for a person to remove a collar from a hunting dog, as defined, without possessing written permission from the dog's owner allowing the removal of the collar.

(6) Existing law authorizes the Department of Fish and Game to issue a permit to authorize a person to offer a prize or other inducement as a reward for the taking of any game fish, as provided.

This bill would authorize the department to issue a permit to authorize a person to offer a prize or other inducement as a reward for the taking of any game species.

(7) Existing law allows specified state and federal officials to take certain mammals involved in dangerous disease outbreaks.

This bill would additionally authorize county officials to take mammals pursuant to that provision upon the approval of, and in a manner approved by, the Director of Fish and Game, or his or her designee.

(8) Under existing law, it is unlawful for any person to fish with 2 rods without first obtaining a second-rod sport fishing validation, in addition to a valid California sport fishing license validation, and having that validation affixed to his or her valid sport fishing license. Any person who has a second-rod validation may fish with 2 rods in inland waters in any sport fishery in which the regulations of the commission provide for the taking of fish by angling, except those waters in which only artificial lures or barbless hooks may be used.

This bill would exclude the waters of the Smith River in Del Norte County from inland waters in which 2 rods can be used.

(9) Existing law exempts a licensed fish importer from the requirement to obtain a fish wholesaler's license.

This bill would revise that provision to exempt from that requirement a licensed fish importer who only purchases or obtains fish from out of state.

(10) Existing law requires the Department of Fish and Game to charge a specified fee for a Dungeness crab vessel permit or permit transfer. Existing law provides that those provisions shall become inoperative on April 1, 2010, and, as of January 1, 2011, are repealed.

This bill would extend the operation of those provisions until April 1, 2012, and would repeal those provisions on January 1, 2013.

~~(11) Existing law requires the Ocean Protection Council to make a grant, upon appropriation by the Legislature, for the development and administration of a Dungeness crab task force, with membership as prescribed. Existing law requires the task force, among other things, to review and evaluate Dungeness crab management measures, with the objective of making recommendations related to Dungeness crab to the Joint Committee on Fisheries and Aquaculture, the Department of Fish and Game, and the Fish and Game Commission by January 15, 2010. The task force would cease to exist on January 1, 2011.~~

~~This bill would require the council to develop and administer the Dungeness crab task force, and would classify certain members as nonvoting members.~~

~~(12)~~

~~(11)~~ Existing law governs the sea cucumber fishery in this state. Under existing law, sea cucumbers cannot be taken, possessed aboard

a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit issued by the Department of Fish and Game. The Fish and Game Commission is authorized to adopt regulations that it determines may reasonably be necessary to protect the sea cucumber resource and assure a sustainable sea cucumber fishery or to enhance enforcement activities. A violation of existing law or regulations adopted pursuant thereto is a crime. Existing law provides that those provisions shall become inoperative on April 1, 2010, and, as of January 1, 2011, are repealed.

This bill would extend the operation of those provisions until April 1, 2015, and would repeal those provisions on January 1, 2016. Because this bill would extend the operation of the sea cucumber permit program and the regulations and thereby the crimes imposed for a violation of those provisions, the bill would create a state-mandated local program by creating new crimes.

~~(13)~~

(12) Existing law provides that the taking of a mammal or bird by a person for which a hunting license or tag, seal, or stamp is required without the person having in his or her possession the required license, tag, seal, or stamp is punishable by a fine of not less than \$250 or more than \$2,000 or as a misdemeanor, or both. Existing law authorizes a court to reduce the fine to \$50 if the person produces in court a license, tag, or stamp issued to the person and valid at the time of the person's arrest.

This bill instead would authorize a court to reduce the charge to an infraction punishable by a fine of not less than \$50 and not more than \$250 if the person produces in court a license, tag, seal, or stamp issued to the person and valid at the time of the person's arrest.

~~(14)~~

(13) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (act) generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. The act requires responsible parties, as defined, to fully mitigate adverse impacts to wildlife, fisheries, wildlife habitat, and fisheries habitat. Full mitigation is required to be provided by successfully carrying out environmental projects or funding restoration activities required by the administrator in carrying out projects. The act authorizes the administrator, if any

significant wildlife rehabilitation is necessary, to require the responsible party to prepare and submit a wildlife rehabilitation plan.

This bill would revise that wildlife rehabilitation plan provision to authorize the administrator to require the responsible party to prepare and submit to the administrator, and to implement, a wildlife rehabilitation plan.

~~(15)~~

(14) The act defines “nonpersistent oil” to mean a petroleum-based oil, such as gasoline, diesel, or jet fuel, that has specified characteristics.

This bill would delete diesel from that provision.

~~(16)~~

(15) Existing law requires the Department of Fish and Game to seize all birds, mammals, fish, reptiles, or amphibians, or any part thereof, that have been unlawfully taken, possessed, sold, imported, or transported.

This bill would revise that provision to also include plants and aquaculture animals and products, or any part thereof. The bill would make certain conforming changes to related provisions of existing law.

~~(17)~~

(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 859 is added to the Fish and Game Code,
- 2 to read:
- 3 859. Notwithstanding Section 11005 of the Government Code,
- 4 the department may seek and accept grants and donations from
- 5 private and public organizations and agencies for the purpose of
- 6 administering the Canine (K9) Program. The acceptance of
- 7 one-time donations valued over \$15,000 shall require approval of
- 8 the Department of Finance.
- 9 SEC. 2. Section 1053 of the Fish and Game Code is amended
- 10 to read:

1053. A person shall not obtain more than one license, permit, reservation, or other entitlement of the same class, or more than the number of tags authorized by statute or regulation for the same license year, except under one of the following conditions:

(a) Licenses issued pursuant to paragraphs (4) and (5) of subdivision (a) of Section 3031, subdivision (d) of Section 3050, paragraphs (3), (4), and (5) of subdivision (a) of Section 7149, and paragraphs (3), (4), and (5) of subdivision (a) of Section 7149.05.

(b) The loss or destruction of an unexpired license, tag, permit, reservation, or other entitlement as certified by the applicant's signed affidavit and proof, as determined by the department, that the original license, tag, permit, reservation, or other entitlement was issued, and payment of a base fee of five dollars (\$5), adjusted pursuant to Section 713, not to exceed the fee for the original entitlement.

(c) The adjustment of the base fee pursuant to Section 713 applies to the hunting license years commencing on or after July 1, 1996, and the fishing license years commencing on or after January 1, 1996.

SEC. 3. Section 1345 of the Fish and Game Code is amended to read:

1345. (a) The board shall investigate, study, and determine what areas within the State are most essential and suitable for wildlife production and preservation, and will provide suitable recreation; and shall ascertain and determine what lands within the State are suitable for game propagation, game refuges, bird refuges, waterfowl refuges, game farms, fish hatcheries, game management areas, and what streams and lakes are suitable for, or can be made suitable for fishing and hunting.

(b) In determining which areas are suitable for fishing and hunting, the board, in consultation with the department, shall take into consideration areas of the state where public access and opportunity for fishing and hunting are most needed.

SEC. 4. Section 1348 of the Fish and Game Code is amended to read:

1348. (a) The board shall authorize the acquisition of such real property, rights in real property, water, or water rights as may be necessary to carry out the purposes of this chapter. The board may authorize acquisition by the department, but the department shall not acquire any of such property by eminent domain

1 proceedings except such property as may be necessary to provide
2 access roads or rights-of-way to areas to be used for fishing the
3 coastal waters of the Pacific Ocean, and then only if the board of
4 supervisors of the affected county has agreed by resolution to those
5 proceedings for each parcel of land, and has further agreed by
6 resolution to maintain the road or right-of-way. The board may
7 authorize acquisition by the State Public Works Board, which may
8 effect acquisitions pursuant to the Property Acquisition Law, Part
9 11 (commencing with Section 15850) of Division 3 of Title 2 of
10 the Government Code.

11 (b) For the purposes of this chapter and Chapter 4.1
12 (commencing with Section 1385), the board may authorize the
13 acquisition of interests in real property and water rights by means
14 of gifts, purchases, leases, easements, the transfer or exchange of
15 property for other property of like value, transfers of development
16 rights or credits, and purchases of development rights, conservation
17 easements, and other interests.

18 (c) To further implement this chapter and Chapter 4.1
19 (commencing with Section 1385), the board may authorize the
20 department to do any of the following:

21 (1) Accept federal grants and receive gifts, donations,
22 subventions, rents, royalties, and other financial support from
23 public or private sources. Proceeds received from any of these
24 sources shall be deposited in the Wildlife Restoration Fund.

25 (2) Notwithstanding any other provision of law, lease, sell,
26 exchange, or otherwise transfer any real property, interest in real
27 property, or option acquired by or held under the jurisdiction of
28 the board or the department. Except as provided in Section 1355,
29 proceeds from transactions entered into pursuant to this paragraph
30 shall be deposited in the Wildlife Restoration Fund.

31 (3) Lease degraded potential wildlife habitat real property to
32 nonprofit organizations, local governmental agencies, or state and
33 federal agencies if the lessee agrees to restore the real property to
34 its highest possible wildlife habitat value and maintain the real
35 property at that highest possible wildlife habitat value. If feasible,
36 during the period of lease, the board may require that the real
37 property be open to the public for compatible wildlife-dependent
38 recreational opportunities. Proceeds from any lease or rental and
39 interest thereon shall be deposited in the Wildlife Restoration Fund.

1 (4) Acquire former wildlife habitat real property, including
2 riparian habitat real property, restore and sell the real property, or
3 any interest therein, to private owners, local governmental agencies,
4 or state departments and agencies or exchange the property for
5 other real property, if a written and recorded agreement is first
6 secured to keep and maintain the real property as wildlife habitat
7 in perpetuity. The agreement shall contain a reversion if the real
8 property sold or exchanged is not maintained as wildlife habitat.
9 The agreement containing the reversion shall be set forth in any
10 conveyance transferring any real property, interest in real property,
11 or option subject to this section. Proceeds from the sales shall be
12 deposited in the Wildlife Restoration Fund.

13 SEC. 5. Section 2003 of the Fish and Game Code is amended
14 to read:

15 2003. (a) Except as specified in subdivisions (b), (c), and (d),
16 it is unlawful to offer any prize or other inducement as a reward
17 for the taking of any game birds, mammals, fish, reptiles, or
18 amphibians in an individual contest, tournament, or derby.

19 (b) The department may issue a permit to any person authorizing
20 that person to offer a prize or other inducement as a reward for the
21 taking of any game species, as defined by the commission by
22 regulation, if it finds that there would be no detriment to the
23 resource. The permit is subject to regulations adopted by the
24 commission. The application for the permit shall be accompanied
25 by a fee in the amount determined by the department as necessary
26 to cover the reasonable administrative costs incurred by the
27 department in issuing the permit. However, the department may
28 waive the permit fee if the contest, tournament, or derby is for
29 persons under the age of 16 years, or who are physically or
30 mentally challenged, and the primary purpose of the contest,
31 tournament, or derby is to introduce or educate them about fishing
32 or hunting. All permits for which the fee is waived pursuant to this
33 subdivision shall comply with all other requirements set forth in
34 this section.

35 (c) This section does not apply to any person conducting what
36 are generally known as frog-jumping contests or fish contests
37 conducted in waters of the Pacific Ocean.

38 (d) This section does not apply to any person conducting an
39 individual contest, tournament, or derby for the taking of game
40 birds and mammals, if the total value of all prizes or other

1 inducements is less than five hundred dollars (\$500) for the
2 individual contest, tournament, or derby.

3 SEC. 6. Section 2011.5 is added to the Fish and Game Code,
4 to read:

5 2011.5. (a) It is unlawful for a person to remove from a hunting
6 dog any collar, including an electronic or radio transmitting device,
7 without possessing written permission from the dog's owner
8 allowing the removal of the collar.

9 (b) As used in this section, "hunting dog" means a dog in the
10 field actively engaged in the taking of mammals or birds, or a dog
11 actively being trained for the taking of mammals or birds, that is
12 located in an area where mammals or birds can be taken, at that
13 time and place, in accordance with existing law.

14 (c) This section does not apply to a law enforcement officer or
15 an animal control officer in the performance of his or her duty, or
16 to a person who is assisting an injured dog.

17 ~~(d) Nothing in this section authorizes trespass for the purpose~~
18 ~~of retrieving a hunting dog.~~

19 SEC. 7. Section 3004 of the Fish and Game Code is amended
20 to read:

21 3004. (a) It is unlawful for any person, other than the owner,
22 person in possession of the premises, or a person having the express
23 permission of the owner or person in possession of the premises,
24 to hunt or to discharge while hunting, any firearm or other deadly
25 weapon within 150 yards of any occupied dwelling house,
26 residence, or other building or any barn or other outbuilding used
27 in connection therewith. The 150-yard area is a "safety zone."

28 (b) It is unlawful for any person to intentionally discharge any
29 firearm or release any arrow or crossbow bolt over or across any
30 public road or other established way open to the public, in an
31 unsafe manner.

32 SEC. 8. Section 3050 of the Fish and Game Code is amended
33 to read:

34 3050. (a) A hunting license shall not be issued to any person
35 unless he or she presents to the person authorized to issue that
36 license any of the following:

37 (1) Evidence that he or she has held a hunting license issued by
38 this state in a prior year.

1 (2) Evidence that he or she holds a current hunting license, or
2 a hunting license issued in either of the two previous hunting years
3 by another state or province.

4 (3) A certificate of completion of a course in hunter education,
5 principles of conservation, and sportsmanship, as provided in this
6 article. A hunter education instruction validation stamp shall be
7 permanently affixed to certificates of completion that have been
8 issued before January 1, 2008.

9 (4) A certificate of successful completion of a hunter education
10 course in another state or province.

11 (5) Evidence of completion of a course in hunter education,
12 principles of conservation, and sportsmanship, which the
13 commission may, by regulation, require.

14 (b) The evidence required in subdivision (a) shall be forwarded
15 to the department with the license agent's report of hunting license
16 sales as required pursuant to Section 1055.5.

17 (c) Subdivision (a) does not apply to any person purchasing a
18 hunting license under paragraph (5) of subdivision (a) of Section
19 3031. However, that license shall not qualify as evidence required
20 in subdivision (a) of this section.

21 (d) The department may issue collectible, commemorative
22 licenses to any person for purposes of promoting and supporting
23 licensed hunting and resource conservation, subject to all of the
24 following:

25 (1) A commemorative license may be designed and produced
26 in the same image and manner of a valid hunting license, and shall
27 be clearly marked and identified as a commemorative license,
28 rendering it invalid for the take of any mammal or bird.

29 (2) If a commemorative license is designed and produced in
30 accordance with paragraph (1), that commemorative license may
31 be obtained only after the expiration of the valid hunting license.

32 (3) A commemorative license shall not confer any rights,
33 privileges, or other entitlements to any person purchasing or in
34 possession of such a license.

35 (4) Section 3031, subdivision (a) of this section, and subdivision
36 (a) of Section 1052 do not apply to any person purchasing a
37 commemorative license.

38 (5) A commemorative license shall not qualify as evidence
39 required in subdivision (a).

1 SEC. 9. Section 4011 of the Fish and Game Code is amended
2 to read:

3 4011. (a) Fur-bearing mammals, game mammals, and nongame
4 mammals, when involved in dangerous disease outbreaks, may be
5 taken by duly constituted officials of any of the following:

- 6 (1) The United States Department of Agriculture.
- 7 (2) The United States Department of the Interior.
- 8 (3) The United States Department of Health and Human
9 Services.
- 10 (4) The Department of Food and Agriculture.
- 11 (5) The State Department of Public Health.
- 12 (6) The department.

13 (b) A county official may take fur-bearing mammals, game
14 mammals, and nongame mammals pursuant to this section, upon
15 the prior approval of the director or his or her designee and in a
16 manner approved by the director or his or her designee.

17 SEC. 10. Section 5654 of the Fish and Game Code is amended
18 to read:

19 5654. (a) (1) Notwithstanding Section 7715 and except as
20 provided in paragraph (2), the director, within 24 hours of
21 notification of a spill or discharge, as those terms are defined in
22 subdivision (ad) of Section 8670.3 of the Government Code, where
23 any fishing, including all commercial, recreational, and nonlicensed
24 subsistence fishing, may take place, or where aquaculture
25 operations are taking place, shall close to the take of all fish and
26 shellfish all waters in the vicinity of the spill or discharge or where
27 the spilled or discharged material has spread, or is likely to spread.
28 In determining where a spill or discharge is likely to spread, the
29 director shall consult with the Administrator of the Office of Spill
30 Prevention and Response. At the time of closure, the department
31 shall make all reasonable efforts to notify the public of the closure,
32 including notification to commercial and recreational fishing
33 organizations, and posting of warnings on public piers and other
34 locations where subsistence fishing is known to occur. The
35 department shall coordinate, when possible, with local and regional
36 agencies and organizations to expedite public notification.

37 (2) Closure pursuant to paragraph (1) is not required if, within
38 24 hours of notification of a spill or discharge, the Office of
39 Environmental Health Hazard Assessment finds that a public health
40 threat does not or is unlikely to exist.

1 (b) Within 48 hours of notification of a spill or discharge subject
2 to subdivision (a), the director, in consultation with the Office of
3 Environmental Health Hazard Assessment, shall make an
4 assessment and determine all of the following:

5 (1) The danger posed to the public from fishing in the area where
6 the spill or discharge occurred or spread, and the danger of
7 consuming fish taken in the area where the spill or discharge
8 occurred or spread.

9 (2) Whether the areas closed for the take of fish or shellfish
10 should be expanded to prevent any potential take or consumption
11 of any fish or shellfish that may have been contaminated by the
12 spill or discharge.

13 (3) The likely period for maintaining a closure on the take of
14 fish and shellfish in order to prevent any possible contaminated
15 fish or shellfish from being taken or consumed or other threats to
16 human health.

17 (c) Within 48 hours after receiving notification of a spill or
18 discharge subject to subdivision (a), or as soon as is feasible, the
19 director, in consultation with the Office of Environmental Health
20 Hazard Assessment, shall assess and determine the potential danger
21 from consuming fish that have been contained in a recirculating
22 seawater tank onboard a vessel that may become contaminated by
23 the vessel's movement through an area where the spill or discharge
24 occurred or spread.

25 (d) If the director finds in his or her assessment pursuant to
26 subdivision (b) that there is no significant risk to the public or to
27 the fisheries, the director may immediately reopen the closed area
28 and waive the testing requirements of subdivisions (e) and (f).

29 (e) Except under the conditions specified in subdivision (d),
30 after complying with subdivisions (a) and (b), the director, in
31 consultation with the Office of Environmental Health Hazard
32 Assessment, but in no event more than seven days from the
33 notification of the spill or discharge, shall order expedited tests of
34 fish and shellfish that would have been open for take for
35 commercial, recreational, or subsistence purposes in the closed
36 area if not for the closure, to determine the levels of contamination,
37 if any, and whether the fish or shellfish is safe for human
38 consumption.

39 (f) (1) Within 24 hours of receiving a notification from the
40 Office of Environmental Health Hazard Assessment that no threat

1 to human health exists from the spill or discharge or that no
2 contaminant from the spill or discharge is present that could
3 contaminate fish or shellfish, the director shall reopen the areas
4 closed pursuant to this section. The director may maintain a closure
5 in any remaining portion of the closed area where the Office of
6 Environmental Health Hazard Assessment finds contamination
7 from the spill or discharge persists that may adversely affect human
8 health.

9 (2) The director, in consultation with the commission, may also
10 maintain a closure in any remaining portion of the closed area
11 where commercial fishing or aquaculture occurs and where the
12 department determines, pursuant to this paragraph, that
13 contamination from the spill or discharge persists that may cause
14 the waste of commercial fish or shellfish as regulated by Section
15 7701.

16 (g) To the extent feasible, the director shall consult with
17 representatives of commercial and recreational fishing associations
18 and subsistence fishing communities regarding the extent and
19 duration of a closure, testing protocols, and findings. If a spill or
20 discharge occurs within the lands governed by a Native American
21 tribe or affects waters flowing through tribal lands, or tribal
22 fisheries, the director shall consult with the affected tribal
23 governments.

24 (h) The director shall seek full reimbursement from the
25 responsible party or parties for the spill or discharge for all
26 reasonable costs incurred by the department in carrying out this
27 section, including, but not limited to, all testing.

28 SEC. 11. Section 7149.45 of the Fish and Game Code is
29 amended to read:

30 7149.45. (a) It is unlawful for any person to fish with two rods
31 without first obtaining a second-rod sport fishing validation, in
32 addition to a valid California sport fishing license validation, and
33 having that validation affixed to his or her valid sport fishing
34 license. Any person who has a valid second-rod sport fishing
35 validation affixed to his or her valid sport fishing license may fish
36 with two rods in inland waters in any sport fishery in which the
37 regulations of the commission provide for the taking of fish by
38 angling, except those waters in which only artificial lures or
39 barbless hooks may be used and the waters of the Smith River in
40 Del Norte County.

(b) The department or an authorized license agent shall issue a second-rod sport fishing validation upon payment of a base fee of seven dollars and fifty cents (\$7.50) during the 1995 calendar year and subsequent years, as adjusted under Section 713.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

SEC. 12. Section 8035 of the Fish and Game Code is amended to read:

8035. (a) Except for a person exempt under Section 8030, any person who, for the purpose of resale to other than the ultimate consumer, purchases or obtains fish from another person, who is required to be licensed as a fish receiver, fish processor, fish importer, or fish wholesaler under this article, shall obtain a fish wholesaler's license.

(b) The annual fee for a fish wholesaler's license is three hundred seventy-one dollars (\$371).

(c) This section does not apply to either of the following:

(1) Persons required to have a marine aquaria receiver's license pursuant to Section 8033.1.

(2) Persons licensed pursuant to Section 8036 who only purchase or obtain fish from outside this state.

SEC. 13. Section 8036 of the Fish and Game Code is amended to read:

8036. (a) Any person who purchases or receives fish, which are taken outside of this state and brought into this state by a person who is not a licensed commercial fisherman, for the purpose of resale to other than the ultimate consumer shall obtain a fish importer's license. The annual fee for a fish importer's license is five hundred forty-nine dollars (\$549).

(b) Any person who, for the purpose of resale to other than the ultimate consumer, purchases or obtains fish within California in addition to fish that are purchased, obtained, or taken outside of the state, shall obtain both a wholesaler's license pursuant to Section 8035 and an importer's license pursuant to this section.

~~SEC. 14. Section 8276.4 of the Fish and Game Code is amended to read:~~

~~8276.4. (a) The Ocean Protection Council shall, through its chairperson, develop and administer a Dungeness crab task force with membership as follows:~~

- 1 ~~(1) Two members representing sport fishing interests.~~
- 2 ~~(2) Two members representing crab processing interests.~~
- 3 ~~(3) One member representing commercial passenger fishing~~
- 4 ~~vessel interests.~~
- 5 ~~(4) Two nonvoting members representing nongovernmental~~
- 6 ~~organization interests.~~
- 7 ~~(5) One nonvoting representative of Sea Grant.~~
- 8 ~~(6) Two nonvoting members representing the department.~~
- 9 ~~(7) Seventeen members representing commercial fishery~~
- 10 ~~interests, elected by licensed persons possessing valid Dungeness~~
- 11 ~~crab permits in their respective ports and production levels, as~~
- 12 ~~follows:~~
- 13 ~~(A) Four members from Crescent City.~~
- 14 ~~(B) One member from Trinidad.~~
- 15 ~~(C) Two members from Eureka.~~
- 16 ~~(D) Two members from Fort Bragg.~~
- 17 ~~(E) Two members from Bodega Bay.~~
- 18 ~~(F) Two members from San Francisco.~~
- 19 ~~(G) Two members from Half Moon Bay.~~
- 20 ~~(H) One member from ports south of Half Moon Bay.~~
- 21 ~~(I) One member who has a valid California nonresident crab~~
- 22 ~~permit.~~
- 23 ~~(b) For ports with more than one representative, elected members~~
- 24 ~~and their alternates shall represent both the upper and lower, and~~
- 25 ~~in some cases middle, production levels. Production levels shall~~
- 26 ~~be based on the average landing during the previous five years, of~~
- 27 ~~valid crab permitholders who landed a minimum of 25,000 pounds~~
- 28 ~~of crab during the same period.~~
- 29 ~~(c) The Dungeness crab task force shall do all of the following:~~
- 30 ~~(1) Under the guidance of a professional facilitator hired by the~~
- 31 ~~Ocean Protection Council for this purpose, review and evaluate~~
- 32 ~~Dungeness crab management measures with the objective of~~
- 33 ~~making recommendations to the Joint Committee on Fisheries and~~
- 34 ~~Aquaculture, the department, and the commission no later than~~
- 35 ~~January 15, 2010.~~
- 36 ~~(2) Make recommendations, including, but not limited to, the~~
- 37 ~~need for a permanent Dungeness crab advisory committee, refining~~
- 38 ~~sport and commercial Dungeness crab management, establishing~~
- 39 ~~a Dungeness crab marketing commission, and the need for statutory~~
- 40 ~~changes to accomplish task force objectives.~~

1 ~~(3) In considering Dungeness crab management options,~~
2 ~~prioritize the review of pot limit restriction options, harvest~~
3 ~~allocation, current and future sport and commercial fishery effort,~~
4 ~~season modifications, essential fishery information needs, and~~
5 ~~short- and long-term objectives for improved management.~~

6 ~~(d) The task force may establish subcommittees of specific user~~
7 ~~groups from the task force membership to focus on issues specific~~
8 ~~to sport fishing, commercial harvest, or crab processing. The~~
9 ~~subcommittees shall report their recommendations, if any, to the~~
10 ~~task force.~~

11 ~~(e) The Ocean Protection Council may fund department staffing~~
12 ~~costs, as well as task force participant travel.~~

13 ~~(f) A recommendation shall be forwarded to the Joint Committee~~
14 ~~on Fisheries and Aquaculture, the department, and the commission~~
15 ~~upon an affirmative vote of at least two-thirds of the task force~~
16 ~~members.~~

17 ~~(g) The task force shall cease to exist on January 1, 2011.~~

18 ~~(h) Eligibility to take crab in California waters and offshore for~~
19 ~~commercial purposes may be subject to restrictions, including, but~~
20 ~~not limited to, restrictions on the number of traps utilized by that~~
21 ~~person, if either of the following occurs:~~

22 ~~(1) A person holds a Dungeness crab permit with landings of~~
23 ~~less than 5,000 pounds between November 15, 2003, and July 15,~~
24 ~~2008, inclusive.~~

25 ~~(2) A person has purchased a Dungeness crab permit on or after~~
26 ~~July 15, 2008, from a permitholder who landed less than 5,000~~
27 ~~pounds between November 15, 2003, and July 15, 2008, inclusive.~~

28 ~~(i) This section shall remain in effect only until January 1, 2011,~~
29 ~~and as of that date is repealed unless a later enacted statute, which~~
30 ~~is enacted before January 1, 2011, deletes or extends that date, or~~
31 ~~it is rendered inoperative by commission regulations.~~

32 ~~SEC. 15.~~

33 ~~SEC. 14.~~ Section 8280.6 of the Fish and Game Code is amended
34 to read:

35 8280.6. (a) The department shall charge a fee for each
36 Dungeness crab vessel permit of two hundred dollars (\$200) for
37 a resident of California and four hundred dollars (\$400) for a
38 nonresident of California.

39 (b) The department shall charge a nonrefundable fee of two
40 hundred dollars (\$200) for each transfer of a permit authorized

1 pursuant to paragraph (2), (4), or (5) of subdivision (a) of Section
2 8280.3.

3 (c) This section shall become inoperative on April 1, 2012, and,
4 as of January 1, 2013, is repealed, unless a later enacted statute
5 that is enacted before January 1, 2013, deletes or extends the dates
6 on which it becomes inoperative and is repealed.

7 ~~SEC. 16.~~

8 *SEC. 15.* Section 8405.4 of the Fish and Game Code is amended
9 to read:

10 8405.4. This article shall become inoperative on April 1, 2015,
11 and as of January 1, 2016, is repealed, unless a later enacted statute
12 that is enacted before January 1, 2016, deletes or extends the dates
13 on which it becomes inoperative and is repealed.

14 ~~SEC. 17.~~

15 *SEC. 16.* Section 12002.1 of the Fish and Game Code is
16 amended to read:

17 12002.1. (a) Notwithstanding Section 12002, the punishment
18 for taking a mammal or bird for which a hunting license issued
19 pursuant to Section 3031 is required or a tag, seal, or stamp is
20 required, including a deer tag issued pursuant to Section 3407,
21 without having in one's possession the required valid license, or
22 without having in one's possession any required tag, seal, or stamp,
23 or when the taking of that mammal or bird is prohibited by
24 allowable season, limit, time, or area, is punishable by a fine of
25 not less than two hundred fifty dollars (\$250) or more than two
26 thousand dollars (\$2,000), or imprisonment in the county jail for
27 not more than one year, or by both that fine and imprisonment, or
28 by any greater punishment prescribed by this code.

29 (b) If a person is charged with an offense described in
30 subdivision (a) and produces in court a license, tag, seal, or stamp,
31 issued to the person and valid at the time of the person's arrest and
32 if the taking was otherwise lawful with respect to season, limit,
33 time, and area, the court may reduce the charge to an infraction
34 punishable by a fine of not less than fifty dollars (\$50) and not
35 more than two hundred fifty dollars (\$250).

36 ~~SEC. 18.~~

37 *SEC. 17.* Section 12159 of the Fish and Game Code is amended
38 to read:

39 12159. All birds, mammals, fish, reptiles, aquaculture animals
40 and products, plants, or amphibians, or any part thereof, which

1 have been taken, possessed, sold, imported, or transported contrary
2 to any of the laws of this state shall be seized by the department,
3 and, in accordance with the commission's regulations, notice of
4 seizure shall be given to the person who had possession of the
5 birds, mammals, fish, reptiles, aquaculture animals and products,
6 plants, or amphibians, or any part thereof, at the time of the seizure
7 if that person is known.

8 ~~SEC. 19:~~

9 *SEC. 18.* Section 12160 of the Fish and Game Code is amended
10 to read:

11 12160. All birds, mammals, fish, reptiles, aquaculture animals
12 and products, plants, or amphibians, or any part thereof, seized in
13 accordance with Section 12159, the sale of which is not prohibited
14 and which have a current market value of one hundred dollars
15 (\$100) or more, shall be packed, preserved, sold for bait, used for
16 fish food in state-owned fish hatcheries, or otherwise put to
17 economical use immediately upon seizure, at the prevailing market
18 price for legal birds, mammals, fish, reptiles, aquaculture animals
19 and products, plants, or amphibians in effect on the date of seizure.
20 Any proceeds thereof shall be placed in the Fish and Game
21 Preservation fund. If the person from whom such birds, mammals,
22 fish, reptiles, aquaculture animals and products, plants, or
23 amphibians were seized is not convicted in a court of competent
24 jurisdiction for the offense out of which the seizure arose, then
25 and in that event the proceeds shall be returned to that person.

26 ~~SEC. 20:~~

27 *SEC. 19.* Section 12161 of the Fish and Game Code is amended
28 to read:

29 12161. The judge before whom any person is tried for taking,
30 possessing, selling, importing, or transporting birds, mammals,
31 fish, reptiles, aquaculture animals and products, plants, or
32 amphibians or parts thereof contrary to the laws of this state shall
33 upon the conviction of the accused make an order forfeiting and
34 disposing of the birds, mammals, fish, reptiles, aquaculture animals
35 and products, plants, or amphibians, or parts thereof, in accordance
36 with the provisions of Section 12160. However, if the birds,
37 mammals, fish, reptiles, aquaculture animals and products, plants,
38 or amphibians, or parts thereof may not be sold lawfully or have
39 a current market value of less than one hundred dollars (\$100), the

1 judge may at his discretion order that they be donated to a state,
2 county, city, or any charitable institution, or that they be destroyed.

3 ~~SEC. 21.~~

4 *SEC. 20.* Section 8670.3 of the Government Code is amended
5 to read:

6 8670.3. Unless the context requires otherwise, the following
7 definitions shall govern the construction of this chapter:

8 (a) “Administrator” means the administrator for oil spill response
9 appointed by the Governor pursuant to Section 8670.4.

10 (b) (1) “Best achievable protection” means the highest level of
11 protection that can be achieved through both the use of the best
12 achievable technology and those manpower levels, training
13 procedures, and operational methods that provide the greatest
14 degree of protection achievable. The administrator’s determination
15 of which measures provide the best achievable protection shall be
16 guided by the critical need to protect valuable coastal resources
17 and marine waters, while also considering all of the following:

18 (A) The protection provided by the measure.

19 (B) The technological achievability of the measure.

20 (C) The cost of the measure.

21 (2) The administrator shall not use a cost-benefit or
22 cost-effectiveness analysis or any particular method of analysis in
23 determining which measures provide the best achievable protection.
24 The administrator shall instead, when determining which measures
25 provide best achievable protection, give reasonable consideration
26 to the protection provided by the measures, the technological
27 achievability of the measures, and the cost of the measures when
28 establishing the requirements to provide the best achievable
29 protection for coastal and marine resources.

30 (c) (1) “Best achievable technology” means that technology
31 that provides the greatest degree of protection, taking into
32 consideration both of the following:

33 (A) Processes that are being developed, or could feasibly be
34 developed anywhere in the world, given overall reasonable
35 expenditures on research and development.

36 (B) Processes that are currently in use anywhere in the world.

37 (2) In determining what is the best achievable technology
38 pursuant to this chapter, the administrator shall consider the
39 effectiveness and engineering feasibility of the technology.

(d) “Dedicated response resources” means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the timeframes for which the equipment and personnel are rated.

(e) “Director” means the Director of Fish and Game.

(f) “Environmentally sensitive area” means an area defined pursuant to the applicable area contingency plans, as created and revised by the Coast Guard and the administrator.

(g) “Inland spill” means a release of at least one barrel (42 gallons) of oil into inland waters that is not authorized by any federal, state, or local governmental entity.

(h) “Inland waters” means waters of the state other than marine waters, but not including groundwater.

(i) “Local government” means a chartered or general law city, a chartered or general law county, or a city and county.

(j) (1) “Marine facility” means any facility of any kind, other than a tank ship or tank barge, that is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility is either of the following:

(A) Subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

(B) Placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank.

(2) For the purposes of this chapter, “marine facility” includes a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.

(3) For the purposes of this chapter, “marine facility” does not include a small craft refueling dock.

(k) (1) “Marine terminal” means any marine facility used for transferring oil to or from a tank ship or tank barge.

(2) “Marine terminal” includes, for purposes of this chapter, all piping not integrally connected to a tank facility, as defined in subdivision (m) of Section 25270.2 of the Health and Safety Code.

(l) “Marine waters” means those waters subject to tidal influence, and includes the waterways used for waterborne

1 commercial vessel traffic to the Port of Sacramento and the Port
2 of Stockton.

3 (m) “Mobile transfer unit” means a small marine fueling facility
4 that is a vehicle, truck, or trailer, including all connecting hoses
5 and piping, used for the transferring of oil at a location where a
6 discharge could impact marine waters.

7 (n) “Nondedicated response resources” means those response
8 resources identified by an Oil Spill Response Organization for oil
9 spill response activities that are not dedicated response resources.

10 (o) “Nonpersistent oil” means a petroleum-based oil, such as
11 gasoline or jet fuel, that evaporates relatively quickly and is an oil
12 with hydrocarbon fractions, at least 50 percent of which, by
13 volume, distills at a temperature of 645° Fahrenheit, and at least
14 95 percent of which, by volume, distills at a temperature of 700°
15 Fahrenheit.

16 (p) “Nontank vessel” means a vessel of 300 gross tons or greater
17 that carries oil, but does not carry that oil as cargo.

18 (q) “Oil” means any kind of petroleum, liquid hydrocarbons,
19 or petroleum products or any fraction or residues therefrom,
20 including, but not limited to, crude oil, bunker fuel, gasoline, diesel
21 fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and
22 liquid distillates from unprocessed natural gas.

23 (r) “Oil spill cleanup agent” means a chemical, or any other
24 substance, used for removing, dispersing, or otherwise cleaning
25 up oil or any residual products of petroleum in, or on, any of the
26 waters of the state.

27 (s) “Oil spill contingency plan” or “contingency plan” means
28 the oil spill contingency plan required pursuant to Article 5
29 (commencing with Section 8670.28).

30 (t) (1) “Oil Spill Response Organization” or “OSRO” means
31 an individual, organization, association, cooperative, or other entity
32 that provides, or intends to provide, equipment, personnel, supplies,
33 or other services directly related to oil spill containment, cleanup,
34 or removal activities.

35 (2) A “rated OSRO” means an OSRO that has received a
36 satisfactory rating from the administrator for a particular rating
37 level established pursuant to Section 8670.30.

38 (3) “OSRO” does not include an owner or operator with an oil
39 spill contingency plan approved by the administrator or an entity
40 that only provides spill management services, or who provides

1 services or equipment that are only ancillary to containment,
2 cleanup, or removal activities.

3 (u) “Onshore facility” means a facility of any kind that is located
4 entirely on lands not covered by marine waters.

5 (v) (1) “Owner” or “operator” means any of the following:

6 (A) In the case of a vessel, a person who owns, has an ownership
7 interest in, operates, charters by demise, or leases, the vessel.

8 (B) In the case of a marine facility, a person who owns, has an
9 ownership interest in, or operates the marine facility.

10 (C) Except as provided in subparagraph (D), in the case of a
11 vessel or marine facility, where title or control was conveyed due
12 to bankruptcy, foreclosure, tax delinquency, abandonment, or
13 similar means to an entity of state or local government, a person
14 who owned, held an ownership interest in, operated, or otherwise
15 controlled activities concerning the vessel or marine facility
16 immediately beforehand.

17 (D) An entity of the state or local government that acquired
18 ownership or control of a vessel or marine facility, when the entity
19 of the state or local government has caused or contributed to a spill
20 or discharge of oil into marine waters.

21 (2) “Owner” or “operator” does not include a person who,
22 without participating in the management of a vessel or marine
23 facility, holds indicia of ownership primarily to protect the person’s
24 security interest in the vessel or marine facility.

25 (3) “Operator” does not include a person who owns the land
26 underlying a marine facility or the facility itself if the person is
27 not involved in the operations of the facility.

28 (w) “Person” means an individual, trust, firm, joint stock
29 company, or corporation, including, but not limited to, a
30 government corporation, partnership, and association. “Person”
31 also includes a city, county, city and county, district, and the state
32 or any department or agency thereof, and the federal government,
33 or any department or agency thereof, to the extent permitted by
34 law.

35 (x) “Pipeline” means a pipeline used at any time to transport
36 oil.

37 (y) “Reasonable worst case spill” means, for the purposes of
38 preparing contingency plans for a nontank vessel, the total volume
39 of the largest fuel tank on the nontank vessel.

(z) “Responsible party” or “party responsible” means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or a person that charters by demise, a vessel or marine facility, or a person or entity accepting responsibility for the vessel or marine facility.

(aa) “Small craft” means a vessel, other than a tank ship or tank barge, that is less than 20 meters in length.

(ab) “Small craft refueling dock” means a waterside operation that dispenses only nonpersistent oil in bulk and small amounts of persistent lubrication oil in containers primarily to small craft and meets both of the following criteria:

(1) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment.

(2) Has total usable tank storage capacity not exceeding 75,000 gallons.

(ac) “Small marine fueling facility” means either of the following:

(1) A mobile transfer unit.

(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, that may dispense small amounts of persistent oil, primarily to small craft, and that meets all of the following criteria:

(A) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.

(B) Has total usable tank storage capacity not exceeding 75,000 gallons.

(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(ad) “Spill” or “discharge” means a release of at least one barrel (42 gallons) of oil into marine waters that is not authorized by a federal, state, or local government entity.

(ae) “State Interagency Oil Spill Committee” means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(af) “California oil spill contingency plan” means the California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(ag) “Tank barge” means a vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(ah) “Tank ship” means a self-propelled vessel that is constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(ai) “Tank vessel” means a tank ship or tank barge.

(aj) “Vessel” means a watercraft or ship of any kind, including every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

(ak) “Vessel carrying oil as secondary cargo” means a vessel that does not carry oil as a primary cargo, but does carry oil in bulk as cargo or cargo residue.

~~SEC. 22.~~

SEC. 21. Section 8670.61.5 of the Government Code is amended to read:

8670.61.5. (a) For purposes of this chapter, “wildlife rehabilitation” means those actions that are necessary to fully mitigate for the damage caused to wildlife, fisheries, wildlife habitat, and fisheries habitat, including beaches, from a spill or inland spill.

(b) Responsible parties shall fully mitigate adverse impacts to wildlife, fisheries, wildlife habitat, and fisheries habitat. Full mitigation shall be provided by successfully carrying out environmental projects or funding restoration activities required by the administrator in carrying out projects complying with the requirements of this section. Responsible parties are also liable for the costs incurred by the administrator or other government agencies in carrying out this section.

(c) If any significant wildlife rehabilitation is necessary, the administrator may require the responsible party to prepare and submit to the administrator, and to implement, a wildlife rehabilitation plan. The plan shall describe the actions that will be implemented to fully meet the requirements of subdivision (b), describe contingency measures that will be carried out in the event that any of the plan actions are not fully successful, provide a reasonable implementation schedule, describe the monitoring and

1 compliance program, and provide a financing plan. The
2 administrator shall review and determine whether to approve the
3 plan within 60 days of submittal. Before approving a plan, the
4 administrator shall first find that the implementation of the plan
5 will fully mitigate the adverse impacts to wildlife, fisheries, wildlife
6 habitat, and fisheries habitat. If the habitat contains beaches that
7 are or were used for recreational purposes, the Department of Parks
8 and Recreation shall review the plan and provide comments to the
9 administrator.

10 (d) The plan shall place first priority on avoiding and minimizing
11 any adverse impacts. For impacts that do occur, the plan shall
12 provide for full onsite restoration of the damaged resource to the
13 extent feasible. To the extent that full onsite restoration is not
14 feasible, the plan shall provide for offsite in-kind mitigation to the
15 extent feasible. To the extent that adverse impacts still have not
16 been fully mitigated, the plan shall provide for the enhancement
17 of other similar resources to the extent necessary to meet the
18 requirements of subdivision (b). In evaluating whether a wildlife
19 rehabilitation plan is adequate, the administrator may use the
20 habitat evaluation procedures established by the United States Fish
21 and Wildlife Service or any other reasonable methods as
22 determined by the Director of Fish and Game.

23 (e) The administrator shall prepare regulations to implement
24 this section. The regulations shall include deadlines for the
25 submittal of plans. In establishing the deadlines, the administrator
26 shall consider circumstances such as the size of the spill and the
27 time needed to assess damage and mitigation.

28 ~~SEC. 23.~~

29 *SEC. 22.* Section 8670.67 of the Government Code is amended
30 to read:

31 8670.67. (a) Any person who intentionally or negligently does
32 any of the following acts shall be subject to an administrative civil
33 penalty for a spill not to exceed two hundred thousand dollars
34 (\$200,000), or for an inland spill not to exceed fifty thousand
35 dollars (\$50,000), for each violation as imposed by the
36 administrator pursuant to Section 8670.68, and each day or partial
37 day that a violation occurs is a separate violation:

38 (1) Except as provided in Section 8670.27, fails to follow the
39 applicable contingency plans or the direction or orders of the
40 administrator in connection with a spill or inland spill.

1 (2) Fails to notify the Coast Guard that a vessel is disabled
2 within one hour of the disability and the vessel, while disabled,
3 causes a discharge that enters marine waters or inland waters. For
4 the purposes of this paragraph, “vessel” means a vessel, as defined
5 in Section 21 of the Harbors and Navigation Code, of 300 gross
6 registered tons or more.

7 (3) Is responsible for a spill or inland spill, unless the discharge
8 is authorized by the United States, the state, or other agency with
9 appropriate jurisdiction.

10 (4) Fails to begin cleanup, abatement, or removal of spilled oil
11 as required by Section 8670.25.

12 (b) Except as provided in subdivision (a), any person who
13 intentionally or negligently violates any provision of this chapter,
14 or Division 7.8 (commencing with Section 8750) of the Public
15 Resources Code, or any permit, rule, regulation, standard, cease
16 and desist order, or requirement issued or adopted pursuant to
17 those provisions, shall be liable for an administrative civil penalty
18 as imposed by the administrator pursuant to Section 8670.68, not
19 to exceed one hundred thousand dollars (\$100,000) for each
20 violation of a separate provision, or, for continuing violations, for
21 each day that violation continues.

22 (c) No person shall be liable for a civil penalty imposed under
23 this section and for a civil penalty imposed pursuant to Section
24 8670.66 for the same act or failure to act.

25 ~~SEC. 24.~~

26 *SEC. 23.* No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.